

JAN 22 2021

A BILL FOR AN ACT

RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that Hawaii is one of
2 thirteen states, including the District of Columbia, that does
3 not have a law that governs the forfeiture of public pensions
4 for public employees who are convicted of a felony. The
5 legislature further finds that while existing law requires an
6 employee of the State or county who is convicted of a felony to
7 have their employment terminated, the employee is still entitled
8 to receive benefits from the employees' retirement system.
9 Public employees who have been convicted of a felony that is
10 directly related to the employee's position or duties ultimately
11 lose the trust of the public by misusing their position and
12 should no longer be eligible to receive benefits accrued during
13 employment with the State or county.

14 The purpose of this Act is to allow a court to order the
15 forfeiture of one-half of the employees' retirement benefits
16 upon the determination by the court that the employee is
17 convicted of a felony that the court finds to be related to



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1 their employment and to allow the designated beneficiaries to
2 receive one-half of the benefits they are entitled to receive
3 after the death of the retirant who committed the felony.

4 SECTION 2. Chapter 88, Hawaii Revised Statutes, is amended
5 by adding a new section to subpart C of part II to be
6 appropriately designated and to read as follows:

7 "§88- Forfeiture of benefits; felony convictions. (a)
8 If a member, former member, or retirant is convicted of a felony
9 and the court finds that the felony is related to the employment
10 of the member, former member, or retirant by the State or any
11 county, the court may order, as a civil penalty pursuant to
12 section 706-605(8), a forfeiture by the member, former member,
13 or retirant of one-half of any:

- 14 (1) Interest;
- 15 (2) Hypothetical account balance in excess of the amount
16 representing any employee contributions made by or on
17 behalf of the member, former member, or retirant;
- 18 (3) Pension;
- 19 (4) Annuity; or
- 20 (5) Retirement allowance,



1 to which the member, former member, or retirant may otherwise be
2 entitled under this chapter; provided that upon the death of the
3 member, former member, or retirant, the designated beneficiary
4 of the member, former member, or retirant may receive one-half
5 benefits to which the beneficiary would otherwise be entitled
6 under this chapter.

7 (b) Upon receipt of a certified copy of the order
8 decreeing forfeiture, the system shall comply with the order and
9 shall reduce, suspend, or deny payment to the member, former
10 member, or retirant as provided in the order until such time as
11 the system receives a certified order to:

12 (1) Increase, resume, or make payments to the member,
13 former member, or retirant; or

14 (2) Quash or reverse the order of forfeiture.

15 The system shall not be required to make inquiry into the
16 propriety of the order of forfeiture or recoup any payments made
17 to the member, former member, or retirant prior to receipt by
18 the system of the order of forfeiture.

19 (c) For the purposes of this section, a felony is "related
20 to the employment" of an employee of the State or a county if



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1 the employee uses or attempts to use the employee's official
2 position to commit the felony, including:

3 (1) Felonies in which state or county time, equipment, or
4 other facilities are used in the commission of the
5 felony;

6 (2) Bribery;

7 (3) Embezzlement, theft, or other unlawful taking,
8 receiving, retaining, or failing to account properly
9 for any property or funds that belong to the State or
10 any county or any department, bureau, board, or other
11 agency thereof; or

12 (4) A felony committed against a person over whom the
13 employee, in the course of the employee's duties,
14 exercises custody or supervision.

15 (d) This section shall not impair or diminish benefits
16 accrued prior to the effective date of this section.

17 (e) This section shall not apply to accrued retirement
18 benefits that are nonforfeitable pursuant to sections 88-73(f),
19 88-281(g), and 88-331(f)."



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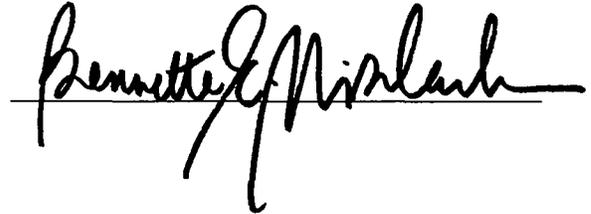
1 SECTION 3. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 4. New statutory material is underscored.

5 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:

A handwritten signature in black ink, appearing to read "Bennett J. Nichols", is written over a horizontal line. The signature is cursive and extends above and below the line.

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Report Title:

Employees' Retirement System; Retirement Benefits; Felony Convictions; Forfeiture

Description:

Authorizes a court to order the forfeiture of Employees' Retirement System (ERS) benefits of an ERS member, former member, or retirant upon conviction of the individual for a felony related to the State or county employment of the individual. Authorizes designated beneficiaries to receive ERS benefits upon the death of the ERS member, former member, or retirant convicted of the felony.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

